



**Littler Mendelson, P.C.**  
290 Broadhollow Road  
Suite 305  
Melville, NY 11747

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Daniel Gomez-Sanchez  
631.247.4713 direct  
631.247.4700 main  
dsgomez@littler.com

**VIA ECF**

Honorable Joan M. Azrack  
United States District Judge  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: Dennis L. D'Aquino, et al., v. Garda CL Atlantic, Inc.  
Docket No. 16-cv-00641 (JMA)(AKT)

Jimmy L. Adkins, et al., v. Garda CL Atlantic, Inc.  
Docket No. 17-cv-2532 (JMA)(AKT)

Dear Judge Azrack:

This firm represents Defendant Garda CL Atlantic, Inc. ("Defendant") in the above-referenced consolidated actions. We write to oppose the D'Aquino plaintiffs' motion for leave to oppose Defendant's motion to dismiss the complaint in the Adkins matter. See ECF Docket No. 41.

First, Mr. Moser represents the D'Aquino plaintiffs, and does not represent the plaintiffs in the Adkins matter. Therefore, the D'Aquino plaintiffs have no standing to oppose Defendant's motion to dismiss the complaint in the Adkins matter.

Second, the D'Aquino plaintiffs' motion is unnecessary. The D'Aquino plaintiffs are concerned that if they do not oppose Defendant's motion to dismiss the Adkins plaintiffs' New York Labor Law Section 191 claims that any decision will be binding on the D'Aquino plaintiffs, whom Mr. Moser represents. This is, we believe, inaccurate. The Adkins plaintiffs failed to oppose Defendant's motion to dismiss their New York Labor Section 191 claim. Therefore, solely the Adkins plaintiffs' Section 191 claims are abandoned. See Gorfinkel v. Vayntrub, No. 13 CV 3093, 2014 U.S. Dist. LEXIS 116313, \*13 (E.D.N.Y. Aug. 20, 2014) ("Plaintiff has waived any opposition with respect to this argument by failing to oppose the present motion on that basis" and the claim is abandoned).

Accordingly, Defendant respectfully requests that the Court deny the D'Aquino plaintiffs' motion to oppose Defendant's motion to dismiss the complaint in the Adkins matter.

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Thank you for the Court's consideration of this request.

Respectfully submitted,

LITTLER MENDELSON, P.C.

*/s/ Daniel Gomez-Sanchez*

Lisa M. Griffith  
Daniel Gomez-Sanchez

CC: All Counsel of Record (*via ECF*)

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